

September 4, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Ex Parte Notice - WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208.**
Petitions for Waiver – Adak Eagle Enterprises and Windy City Cellular

Dear Ms. Dortch:

Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”) hereby respond to the most recent ex parte filing made by General Communication, Inc. (“GCI”) regarding Petitions for Waiver filed by AEE and WCC.¹ This letter also memorializes an ex parte conversation that took place on August 30, 2012, between Monica Desai and Jennifer Richter, counsel to AEE and WCC, and Carol Matthey (Deputy Chief, Wireline Competition Bureau) regarding (1) GCI’s ex parte; and (2) the urgent need for interim relief for AEE while the Commission continues its evaluation.

(1) Response to GCI Ex Parte

GCI now opposes the waiver requests filed by AEE and WCC because, according to GCI, inefficiency by AEE and WCC drives up the support dollars they require to provide service. GCI claims it would be unfair to it, as the more “efficient” competitor, for the Commission to grant more support to WCC than GCI.² The Commission should carefully consider whether GCI is, in fact, an efficient competitor. As explained below, it appears that GCI’s line counts may have been driven up by promotional offers that resulted in end users, both individuals and businesses, taking lines that are not actually used for service.

¹ See Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, *et al.*, filed May 22, 2012 (“AEE Petition”); Petition for Waiver of Windy City Cellular, LLC, WC Docket No. 10-90, *et al.*, filed April 3, 2012 (“WCC Petition”).

² See Letter from John T. Nakahata, Counsel for General Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, filed August 29, 2012 (“GCI Ex Parte”).

Moreover, although GCI never stepped forward when it was apparent the Adak telecommunications plant needed rebuilding and has never invested in robust infrastructure on Adak Island, GCI now asserts that the Commission should rest assured that GCI will protect Adak Island and “will not let Adak Island ‘go dark.’”³ According to GCI’s filing, GCI’s plan is to convince the Commission that GCI is the superior choice to provide government-funded service on Adak Island, convince the Commission not to grant the Petitions for Waiver, thereby leaving AEE and WCC no choice but to file for bankruptcy and, thereafter, purchase and take over the assets of AEE and WCC at pennies on the dollar. All of this will allow GCI to provide service to Adak Island at a lower, more “efficient” cost point, than the service presently provided by AEE and WCC.

The truth is that GCI can only offer service today at a much lower cost than AEE and WCC because GCI has made only minimal long-term investments in telecommunications infrastructure on the island and maintains no presence there,⁴ while at the same time it presumably receives substantially greater USF support than WCC based on the number of lines reported to USAC.⁵ GCI performs only the most basic maintenance and relies on the investments on Adak Island made by AEE in order to provide its service.⁶ WCC and AEE, in contrast, have reinvested the majority of their universal service funding for infrastructure and equipment including but not limited to: (1) constructing two essential cell sites, (2) laying fiber, (3) repairing roads after construction; (4) providing necessary satellite equipment, (5) employing technicians and a mechanic, and (6) purchasing equipment – including trenching equipment, switches, a pipe locator, four-wheel-drive vehicles, a power meter, fiber blowers, transformers, and generators – necessary to provide reliable service to every resident and business on Adak – service that GCI relies upon.⁷ Additionally, WCC

³ GCI Ex Parte at 4.

⁴ See Reply Comments of AEE, WC Docket No. 10-90, *et al.*, 2-4 (filed July 16, 2012) (“AEE Reply Comments”) (explaining GCI’s dependence on AEE’s infrastructure and technicians). It appears that GCI’s minimal investments include a single cell site consisting only of two small antennae mounted on an out-of-service satellite dish, coax cable, switch routing equipment, and an earth station consisting of a small satellite dish to provide long distance service. See Attachment 1, providing photographs of GCI’s two antennae mounted on an out-of-service satellite dish, and its earth station. Compare to photographs of WCC’s downtown and White Alice cell sites, provided at Attachment 2, illustrating the stark difference.

⁵ Unlike AEE and WCC whose unique study area code (SAC) allows for its USF support levels to be easily identified on the USAC website, GCI’s support levels are much less transparent. First, GCI has used two different SACs when reporting lines for the Adak study area to receive USF support. From the third quarter in 2009 to the first quarter in 2011, GCI used the 619001 SAC. Since then, GCI has used the 619014 SAC to identify the Adak study area. Second, both SACs that GCI has used to report lines for Adak have also been used by GCI to report lines for several separate study areas. For example, in addition to Adak, GCI uses the 619014 SAC for other study areas including ACS-Fairbanks, Inc. and ACS-AK Juneau, among several others. The combination of using multiple SACs to report lines for one study area (Adak), along with using a single SAC to encompass multiple study areas has made the precise level of USF support that GCI has received for Adak difficult for AEE and WCC to determine. However, based on the fact that GCI has for each quarter reported significantly higher line counts than WCC – in one quarter more than seven times the number of lines that WCC reported – we believe it is reasonable to presume that GCI has received substantially greater USF support for Adak than WCC has received.

⁶ See *id.*

⁷ See WCC Petition at 6; Letter from Monica Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, 2-3, filed May 21, 2012 (“WCC May 21 Ex Parte”); AEE Reply Comments 2-4.

has expended funds to enable cellular voice and data traffic backhaul and open the only retail store on Adak Island.⁸ Unlike GCI, the funding WCC received was invested in infrastructure and better service on the island.

GCI now characterizes its failure to invest in Adak, and its resulting lack of costs to serve the island, as evidence that it is a “more efficient” carrier than WCC and AEE. Obviously, if a carrier makes insubstantial investments in an area and instead relies on the investment made by a competitor, it will have very few costs to recover and, therefore, can operate much more inexpensively than a carrier that does invest. This has nothing to do with efficiency.

It would be contrary to the public interest for the Commission to allow its USF reforms to force AEE and WCC into bankruptcy and default so that GCI can buy the companies’ USF and RUS-subsidized assets out of bankruptcy for pennies on the dollar.⁹ Such a plan is the opposite of “efficient.” Neither the federal government nor the Commission should be complicit in a plan by GCI to force a competitor into bankruptcy so that it can take over that competitor’s business, assets, and federal funding.

If the Commission is evaluating the relative efficiency of WCC’s and AEE’s service to Adak Island based on GCI’s filing, it must consider GCI’s own claims of “efficiency.” As the attached affidavit of Layton J. Lockett, City Manager for the City of Adak, suggests,¹⁰ it appears GCI has used promotions to drive up the number of lines reported for funding purposes, while the lines are not actually used, or are used only minimally. Again, this does not appear to be an “efficient” use of USF funding. Mr. Lockett testifies that the City of Adak pays for service from GCI for five telephone lines but “the service from GCI is not actually used.”¹¹ Mr. Lockett further testifies that the City signed the contract for five lines “in order to gain the mileage that was being offered by GCI as a promotion”¹² in conjunction with Alaskan Airlines. Mr. Lockett also stated that GCI returned to the City in April 2012 running a similar promotion, and he concluded that “it was still cheaper to renew the contract with GCI for five cellular lines that we won’t use rather than purchase airline mileage.”¹³

It appears that GCI also made multiple lines available to individuals on Adak Island. As Mr. Lockett explained, “I decided to personally sign up for the GCI promotion by purchasing five lines. Paying for GCI service (all five lines) is less expensive than paying for the equivalent mileage and/or flights to/from Adak Island . . . I also received five smart phones . . . valued at over \$200 each . . . Four of

⁸ WCC Petition at 6; *see also* Letter from Monica Desai, Counsel, Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, 4, filed August 21, 2012 (explaining the business rationale for opening the retail store).

⁹ *See* AEE Reply Comments at 5-6.

¹⁰ *See* Declaration of Layton J. Lockett (“Lockett Declaration”) at Attachment 3.

¹¹ *Id.*, ¶ 2.

¹² *Id.*

¹³ *Id.*, ¶ 3.

those phones I have in storage, though I did give one to a family member who does not live on Adak . . .”¹⁴

Moreover, for comparison purposes, the most lines WCC has ever reported is 107 lines.¹⁵ In one quarter GCI reported that it served 347 lines in Adak (while WCC reported 43 lines in the same quarter).¹⁶ Yet, by GCI’s own account, there are only 44 occupied housing units on Adak.¹⁷ At a minimum, the Commission should consider how much total funding GCI is receiving per month for service to Adak, how many customers GCI is actually serving on Adak, the minutes of use on each line, and then evaluate the relative efficiency of GCI’s service. For example, according to Mr. Lockett’s affidavit, GCI may be receiving reimbursement for ten unused or barely used lines assigned to Mr. Lockett and the City of Adak. WCC only receives reimbursement for one line per individual, and WCC’s customers actually use WCC service.

Responding to specific points in GCI’s *ex parte*, AEE and WCC provide the information below, again demonstrating why the requested waivers for AEE and WCC are necessary to serve the public interest and should be granted as expeditiously as possible.

GCI Assertion: Adak will not lose mobile service if AEE and WCC go out of business; GCI will continue to provide mobile service.

- If WCC goes out of business, some WCC customers will inevitably lose service because GCI’s coverage is smaller than WCC’s.¹⁸ GCI has acknowledged that it does not currently possess the required spectrum, facilities and equipment to offer service equivalent to WCC’s.¹⁹
- GCI does not dispute that its wireless service is dependent on AEE’s facilities and infrastructure. GCI acknowledged that it would have to replicate AEE’s facilities to operate

¹⁴ *Id.*, ¶ 7.

¹⁵ WCC’s line counts from the first quarter of 2010 to the fourth quarter of 2011 range from a low of 33 to a high of 107 as reported by USAC. In every quarter reported, GCI had higher line counts than WCC. In the second quarter of 2010, GCI reported a line count seven times greater than the number of lines reported by WCC.

¹⁶ GCI’s line counts from the first quarter of 2010 to the fourth quarter of 2011 range from a low of 128 to a high of 347 as reported by USAC.

¹⁷ *See* GCI *Ex Parte* at 8.

¹⁸ *See* WCC Petition at Exhibit 2 (maps illustrating WCC’s coverage area compared to GCI’s).

¹⁹ *See* Comments of General Communication, Inc., WC Docket No. 10-90 *et al.*, 2-4 (filed July 2, 2012) (“GCI Comments”) (stating that “GCI could construct alternative microwave facilities if necessary;” “GCI believes that it could provide these [E-rate] services to Adak schools as well;” “GCI could provide Adak Island with largely comparable USF-supported services for no more than the total amount of high-cost support;” “GCI’s ConnectMD program, which supplies these telemedicine connections, leases two T-1s from AEE, which GCI could replicate through microwave solutions;” “GCI could deploy a WiFi-based fixed wireless broadband service;” “In the event that it could not acquire the few private line circuits necessary to reach the small number of larger enterprise users on Adak, GCI believes it could provide similar service through microwave facilities to connect those users with GCI’s satellite and switching hub”)(emphasis added); *see also* GCI *Ex Parte* at 6 (“There are some areas that Windy City may serve because its 850 MHz band spectrum has better propagation characteristics than does GCI’s 1900 MHz band spectrum.”).

its CMRS network if it could no longer depend on AEE.²⁰ GCI also acknowledged that it would need to enter into “necessary interconnection arrangements with AT&T Alascom to preserve the ability of callers using AT&T Alascom’s services to reach end users on Adak.”²¹

- Furthermore, while GCI makes promises that, if WCC and AEE go out of business, GCI will expand its service to cover the AEE/WCC service area, this statement may not be consistent with a statement made by the GCI President and CEO that, due to USF cuts, future expansions in rural Alaska will be reduced.²²

GCI Assertion: WCC should not be granted additional high cost support to upgrade its wireless network to 3G.

- WCC did not ask for extra support for the specific purpose of upgrading its wireless network to 3G, and it is not attempting to freeze out its competition. The company merely noted that, given its reduced funding, it cannot continue with a number of initiatives, including upgrading its network to 3G.
- Reasons for the requested support, which GCI did not mention, also include: (1) AEE and WCC have been forced to lay off approximately one-third of their workforce, and lay offs will continue; (2) there is no longer any backhaul redundancy, which has and will leave all WCC customers without service when outages occur due to the extremely challenging weather conditions in Adak; (3) WCC does not have the funds for software needed to track and bill the roaming minutes on its network; (4) WCC abandoned its plans to construct a Clam Lagoon site, intended to enable greater network redundancy, despite having undergone six months of planning; (5) the retail store on Adak Island can no longer support a full-time employee, and as a result that employee is now only working 20 hours per week and has lost her health benefits.²³

GCI Assertion: WCC should not obtain additional support to provide wireless service in areas where GCI already provides service because this is not competitively neutral.

- The only conclusion that can be drawn from this argument is that GCI wants to be the only carrier in the downtown area, freezing out competition from WCC, which is not competitively neutral.

²⁰ See GCI Comments at 2 (acknowledging that GCI would have to replicate AEE’s facilities to operate its CMRS network if it could no longer depend on AEE).

²¹ GCI Ex Parte at 4.

²² See Andrew Jensen, “GCI results in 2011 impacted by cuts in USF support,” *Alaska Journal of Commerce* (March 15, 2012), available at <http://www.alaskajournal.com/Alaska-Journal-of-Commerce/AJOC-March-18-2012/GCI-results-in-2011-impacted-by-cuts-in-USF-support/#ixzz256IubbuC> (“During its March 8 earnings call, GCI President and CEO Ron Duncan said the cuts in USF high-cost support will cost the company \$13 million in 2012, and that future expansions in rural Alaska will be lessened as a result.”).

²³ See Letter from Jennifer Richter, Counsel, Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Fourth Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, 11, filed August 27, 2012.

- GCI also states that it is never reasonable for the government to provide greater support for one CETC over another in the same area. Ironically, the Commission appears to have provided substantially more support to GCI than it has provided to WCC based on the higher number of lines reported by GCI for Adak,²⁴ whether or not those lines were actually used. More importantly, greater support to WCC is justified because, as discussed above, WCC has invested far more resources in Adak than has GCI, which increases the cost of providing service for WCC. GCI has not made these investments, and so it is not entitled to greater funding.

GCI Assertion: GCI does not need more than \$3000 per line per year support to serve the downtown area, and the Commission should not grant WCC support in excess of \$3000 per line per year because that would only support inefficiency.

- GCI accuses WCC of being inefficient because of its high costs. However, unlike GCI, which has made minimal long-term investments on Adak Island, WCC has made substantial investments to build out and maintain infrastructure on Adak to provide comprehensive, reliable wireless service.²⁵ Meanwhile, there is no question and no dispute that because GCI has not made meaningful investments to build out on Adak, it relies on AEE's facilities and infrastructure, including fiber and switch, for the interconnection necessary to provide its wireless service.²⁶ The only way, then, that GCI could provide service at the capped levels is if it is successful in taking over all of AEE's and WCC's facilities for rock-bottom prices, at taxpayers' expense, and continues to receive support for multiple lines that may not actually be used. Such a result is neither efficient nor in the public interest.

GCI Assertion: WCC only serves 10 lines off of the White Alice site, and GCI can provide service to this area more efficiently.

- It is a mischaracterization to say that WCC only serves 10 lines off of White Alice. That site supports customers operating outside the downtown area, including the Maritime Exchange of Alaska's vessel tracking network, the Coast Guard, the State of Alaska, the maritime community, and government agencies, subsistence hunters, and contractors in the Aleutian wilderness where coverage was previously blocked by mountains.²⁷ Significantly, the site also

²⁴ See *supra* notes 16-17.

²⁵ See WCC Petition at 6; WCC May 21 Ex Parte at 2-3; AEE Reply Comments at 4-5.

²⁶ Although GCI makes several speculative statements regarding how it "could provide" service or "replicate" facilities if AEE ceases operations (assertions that are questioned by the ARC in its Comments at 6), it does not deny that its current wireless service is dependent on AEE facilities and infrastructure. See GCI Comments at 2.

²⁷ See Letter from Monica Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Submission of Supplemental Information, WC Docket 10-90, *et al.*, 6, dated July 13, 2012; WCC May 21 Ex Parte at 3; Letter from Monica Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket No. 10-90, *et al.*, 3, filed June 11, 2012 ("WCC June 11 Ex Parte").

provides redundancy for the rest of WCC's service, and provides essential coverage for 911 services outside the downtown area.²⁸ WCC necessarily incurred substantial costs – approximately \$500,000 – to build out the White Alice site in order to provide service in these areas.²⁹ As a result, WCC inherently needs more support than GCI. Clearly, GCI could buy WCC's assets out of bankruptcy and offer service using those assets at a lower cost point. As already explained, that is not a result that is or should be supported by our federal government or by good public policy.

GCI Assertion: The FCC should not consider WCC and AEE together.

- Commission staff made the decision to consider these companies and their petitions together.³⁰ WCC and AEE did not request this. WCC and AEE filed separate Petitions for Waiver.

GCI Assertion: WCC never explained why it constructed and launched White Alice after the Commission proposed to limit high cost support.

- WCC began planning and buying equipment for the construction of the White Alice site in October 2010, began construction in May 2011, and brought the site online all before WCC was aware of the change in the USF rules. WCC received no advance warning that its funding would be drastically slashed in a “flash cut” manner in January 2012, only a few weeks after the *USF/ICC Transformation Order* was released.³¹ As explained in detail in previous filings, WCC had no indication that there would be an immediate cut in its support level until February 2012 when it received its USF settlement for the preceding month.³² If WCC had known there would be a flash-cut in its funding, it either would not have built out the White Alice site several months before or, in view of its statutory obligation to serve the entire study area, WCC would have discussed the expensive build-out (and the impact of the USF reforms) with the Commission and the Regulatory Commission of Alaska before commencing work.
- As WCC specifically explained in previous filings, White Alice was constructed because there is a statutory mandate to cover the entire service area.³³ As already discussed above, the White Alice site is necessary to reach portions of the service area not reached by WCC's downtown cell site, or by GCI.

²⁸ See *id.*

²⁹ WCC May 21 Ex Parte at 3.

³⁰ See *In the Matter of Connect America Fund, et al.*, WC Docket 10-90, *et al.*, Order, ¶ 10 (rel. June 12, 2012) (“As discussed below, we will provide limited, interim support . . . pending further review of the WCC Petition, supplemental filings, and the AEE Petition.”).

³¹ See *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011).

³² See WCC May 21 Ex Parte at 5.

³³ See *id.* at 3; see also 47 U.S.C. 214(e)(1) (requiring carriers to offer services that are supported by USF funds “throughout the service area for which the designation is received”).

GCI Assertion: If AEE goes out of business, GCI will provide better Internet access than AEE provides today and will only request high cost support of \$3000 per line per year.

- GCI does not provide Internet Access to Adak Island today.³⁴ It is unclear how it can substantiate this claim or why the Commission should believe it.
- GCI claims it operates a more robust Wi-Fi Internet access service in Dutch Harbor and claims that it would replicate this service on Adak.³⁵ In WCC's view, GCI would not be able to simply build the same type of Wi-Fi system on Adak and expect to receive reliable service. Because of the cyclonic winds on Adak Island and other persistent, extreme weather conditions, a traditional wireless router is inadequate to provide Wi-Fi in Adak. This is why WCC's Wi-Fi wireless broadband service is fixed and connected to its fiber network.

GCI Assertion: The principal reason AEE needs a waiver of the USF reforms centers on its corporate operating expenses. AEE only needs additional support, beyond \$3000 per line, because it is sub-scale. It should combine with other entities to acquire a viable scale.

- First, as AEE demonstrated in its ex parte filed on July 11, 2012, its employee wage and hour rates are fully in line with statewide schedules, including NTCA and Alaska Department of Labor salary schedules for companies operating in Alaska.³⁶
- Second, as already explained, AEE's high costs are reflective of the expenses necessarily incurred by the company to build out the network on Adak Island on its own. For example, AEE spent \$2.7 million in underground fiber optic cable that was necessary to provide communications to AEE's customers. The costs incurred to install this cable reflect the fact that AEE had to install armored cable to prevent damage from the large rats that are prevalent in Adak and that would otherwise chew through the fiber. AEE also incurred additional costs to dig through marsh and rocky terrain in order to bury the cable in the ground. Because the ground is still saturated with live ammunition, AEE had to receive specific approval from the Navy for routing the fiber, and was not permitted to dig more than 24 inches below the surface.³⁷
- Several carriers were approached and did not want to rebuild the plant on Adak Island. Furthermore, GCI's assertion that AEE should "combine with other entities" rings hollow. GCI is the only other carrier on Adak Island, and it has not offered to combine so that AEE could reduce its overall cost profile. Instead, GCI has been reaping the benefits of using the AEE network and investments.

³⁴ See GCI Ex Parte at 4.

³⁵ See *id.* at 4-5.

³⁶ See WCC June 11 Ex Parte, Schedule 2.

³⁷ See Letter from Monica Desai, Counsel, Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte and Submission of Supplemental Information, WC Docket No. 10-90, *et al.*, 3-4, filed Aug. 20, 2012 (providing a detailed justification of AEE's costs).

GCI Assertion: Adak's 44 occupied housing units would be better served by wireless than by the fiber network that already serves them.

- First, the environment and severe weather conditions, including frequent deep snows, heavy rains, and cyclonic winds, on Adak Island suggest that a wireless-only service is not a viable option to provide consistent, reliable service.
- Furthermore, the implications of GCI's assertion would appear to be the abandonment of much of AEE's recent investments in a USF and RUS-supported fiber network. Such waste would be contrary to the public interest.
- Forcing the Adak community to abandon its wireline service, after years of investment and reliance, would be highly inefficient and directly contrary to the universal service goal of "ensur[ing] that robust affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation."³⁸

GCI Assertion: The Commission should understand where all of AEE's multiline business customers are located.

- AEE will provide this information to the extent the Commission believes it is relevant for their evaluation of the WCC and AEE Petitions.
- Similarly, the Commission should request that GCI disclose where all of its multiline customers in Adak are located, both business and individual, as well as the minutes of usage on each of their lines, to evaluate the efficiency of the GCI lines.

GCI Assertion: Instead of granting AEE relief, the Commission should conduct a reverse auction for high cost support for broadband service to determine whether AEE or GCI can provide service at the lowest support level.

- Considering the amount of time that it would take the Commission to undertake such an auction, AEE would be forced out of business before any auction without relief.
- GCI's suggestion completely ignores the substantial financial resources and years of hard work that AEE has already invested to build its network and to be the first carrier willing to provide reliable, comprehensive service throughout Adak Island.³⁹

GCI Assertion: AEE received approximately \$2.68 million in high cost support disbursements in 2011, and AEE had 155 working loops in the Fourth Quarter of 2012.⁴⁰

- In fact, AEE received only \$1,191,737 in annual high cost loop support in 2011 and the Fourth Quarter of 2012 has not passed.⁴¹

³⁸ *Connect America Fund, et al.* WC Docket No. 10-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17633, ¶ 1 (2011) ("*USF/ICC Transformation Order*").

³⁹ *See, e.g.*, WCC May 21 Ex Parte, ATU Story (describing the labor and resource-intensive process of building AEE's network and being the first carrier to establish service on Adak).

⁴⁰ *See* GCI Ex Parte at 7 and n.18.

⁴¹ It is not material, but if GCI meant the Fourth Quarter of 2011, the correct count would be 150 working loops.

In summary, the Commission should be wary of leaving communications access services for remote Adak Island to a provider that has invested in minimal long-term infrastructure in Adak, barely has facilities on Adak, and maintains no presence on the island. Instead of relying on unsupported, self-serving assertions made by a competitor, AEE and WCC ask the Commission to compare the amount of support each carrier has received and the amount of investment in Adak infrastructure that each carrier has made. The Commission also should speak to customers in Adak about their experiences with each carrier, and it should ask specific questions to GCI regarding its own claims of “efficiency,” based on the attached testimony suggesting that GCI may be receiving reimbursement for multiple lines per individual customer, and that furthermore, it may be receiving reimbursement for lines that are minimally or never used.

(2) Need for Urgent Commission Action

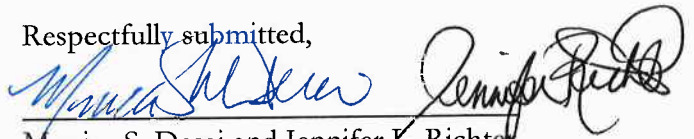
During the August 30 conference call, Ms. Matthey inquired as to why it was urgent for AEE to discuss its waiver request with Commission staff prior to August 31. Pursuant to the Commission’s 90-day shot clock,⁴² AEE had been anticipating a decision on its Petition by August 30, the day before it was scheduled to receive its NECA settlement for the prior month of July. The August 31 settlement was the first NECA settlement to reflect the first phase of funding cuts under Section 54.302 of the Commission’s rules, which went into effect on July 1. AEE was hopeful for resolution of its waiver request before August 31 because, as a result of the cut in funding received on that date, AEE is now operating at a loss. Without interim relief, AEE will be forced to shut down by December 31, 2012.

AEE and WCC continue to stand ready to provide any additional information that Commission staff may request. FCC staff formally requested additional information from AEE and WCC in a letter dated Tuesday, August 21. AEE and WCC provided detailed responses to the FCC in less than a week, through filings submitted on Monday, August 20, Tuesday, August 21, Wednesday, August 22, and Monday, August 27. The companies remain anxious to hear whether the information was provided in a sufficient format and with adequate detail to satisfy the staff request, or whether staff needs anything further.

⁴² See *USF/ICC Transformation Order*, ¶ 544.

AEE also reiterates its request for stay (or reverse) of the implementation of Section 54.302 of the Commission's rules while the Bureaus complete their review process. AEE makes this request based on the timing of staff's recent information requests, combined with AEE's and WCC's good faith efforts over the past five months to provide the Commission with timely and full information, the financial strain that has already been put on the companies by the funding cuts that have taken effect, and, most critically, the potential default on AEE's RUS loans which will occur absent interim relief while the Commission evaluates the newly requested information.

Respectfully submitted,



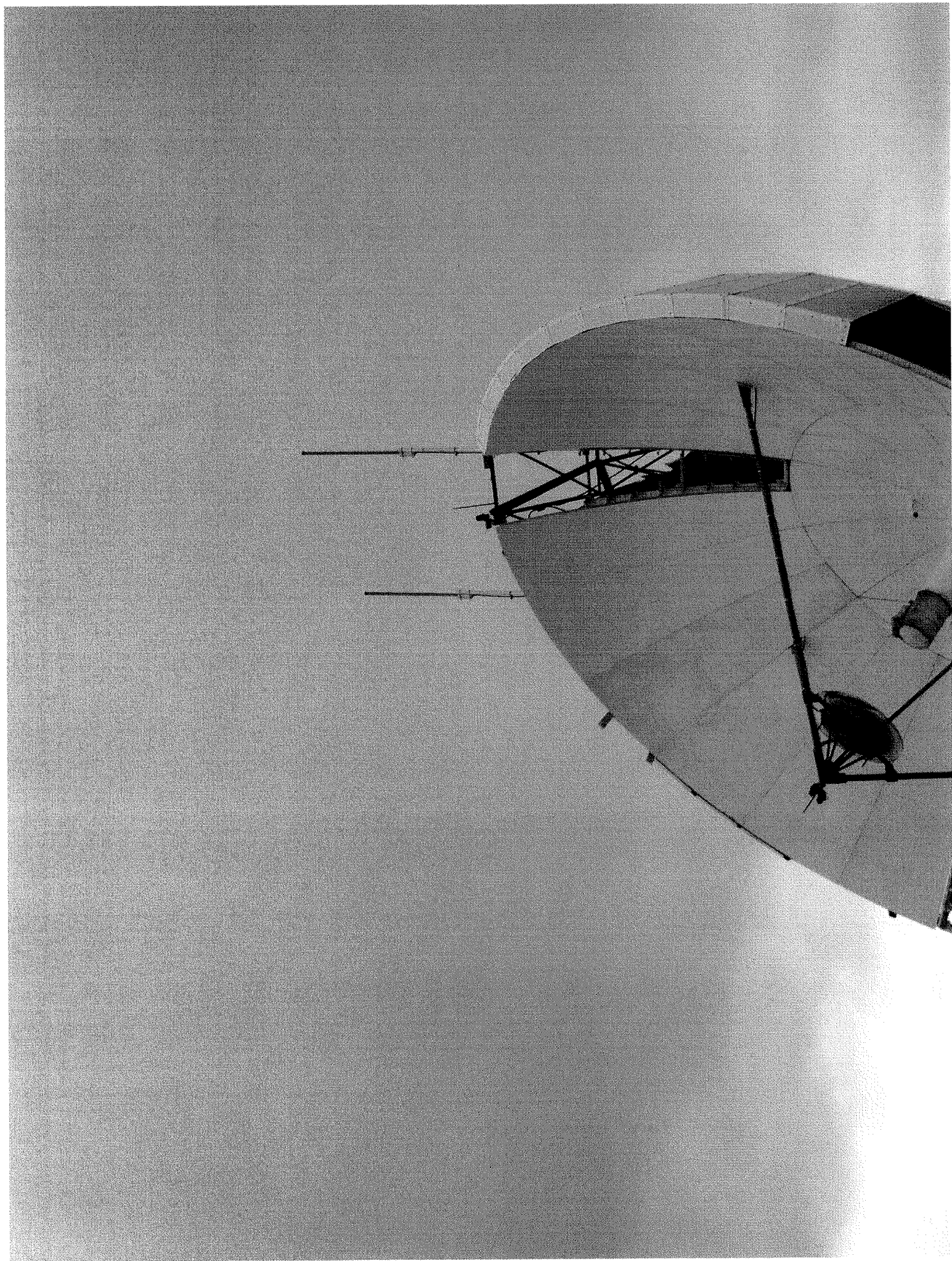
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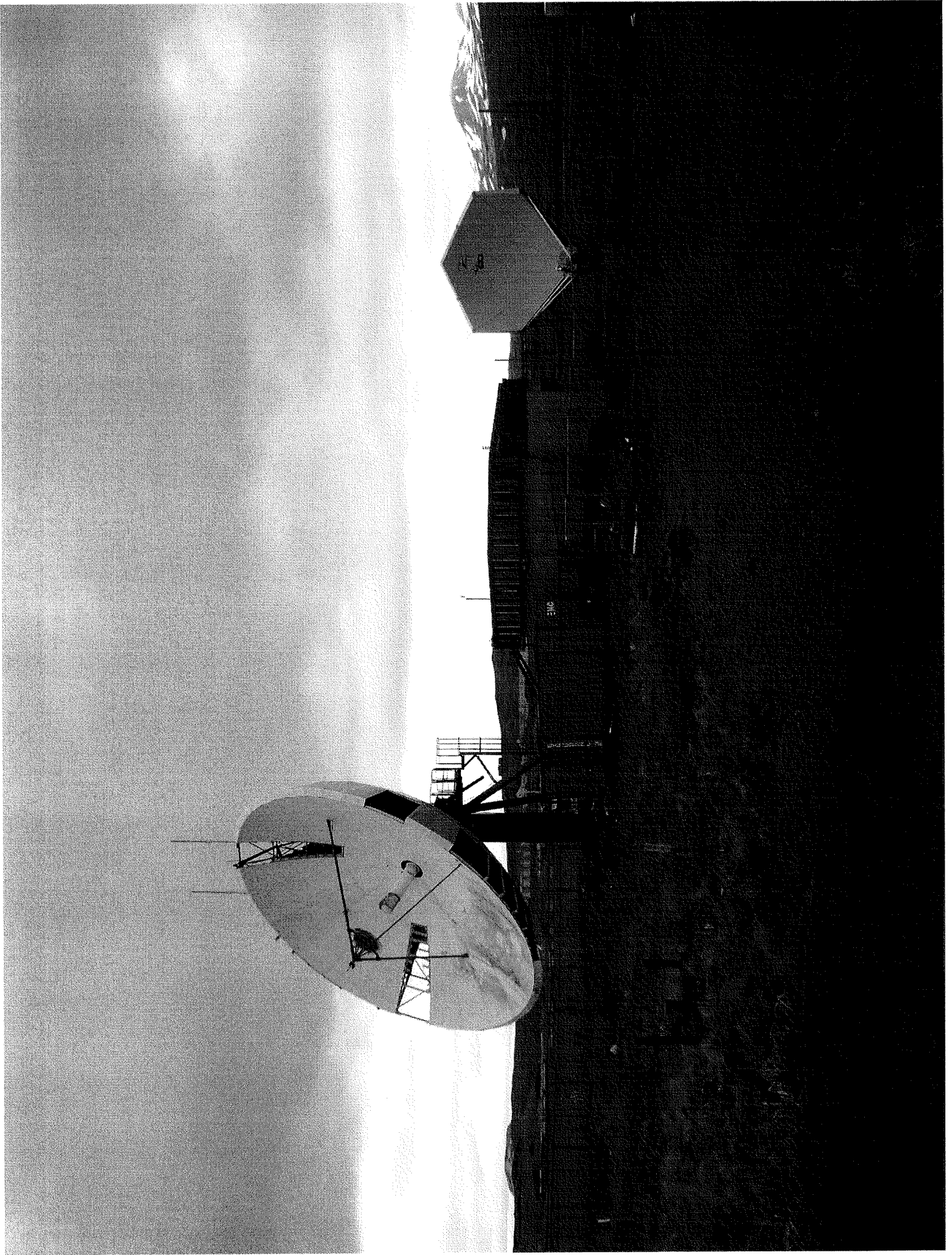
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Margaret Wiener
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Angela Kronenberg
Louis Peraertz
Courtney Reinhard
Michael Steffen
Priscilla Delgado Argeris

Attachment 1

GCI's Plant



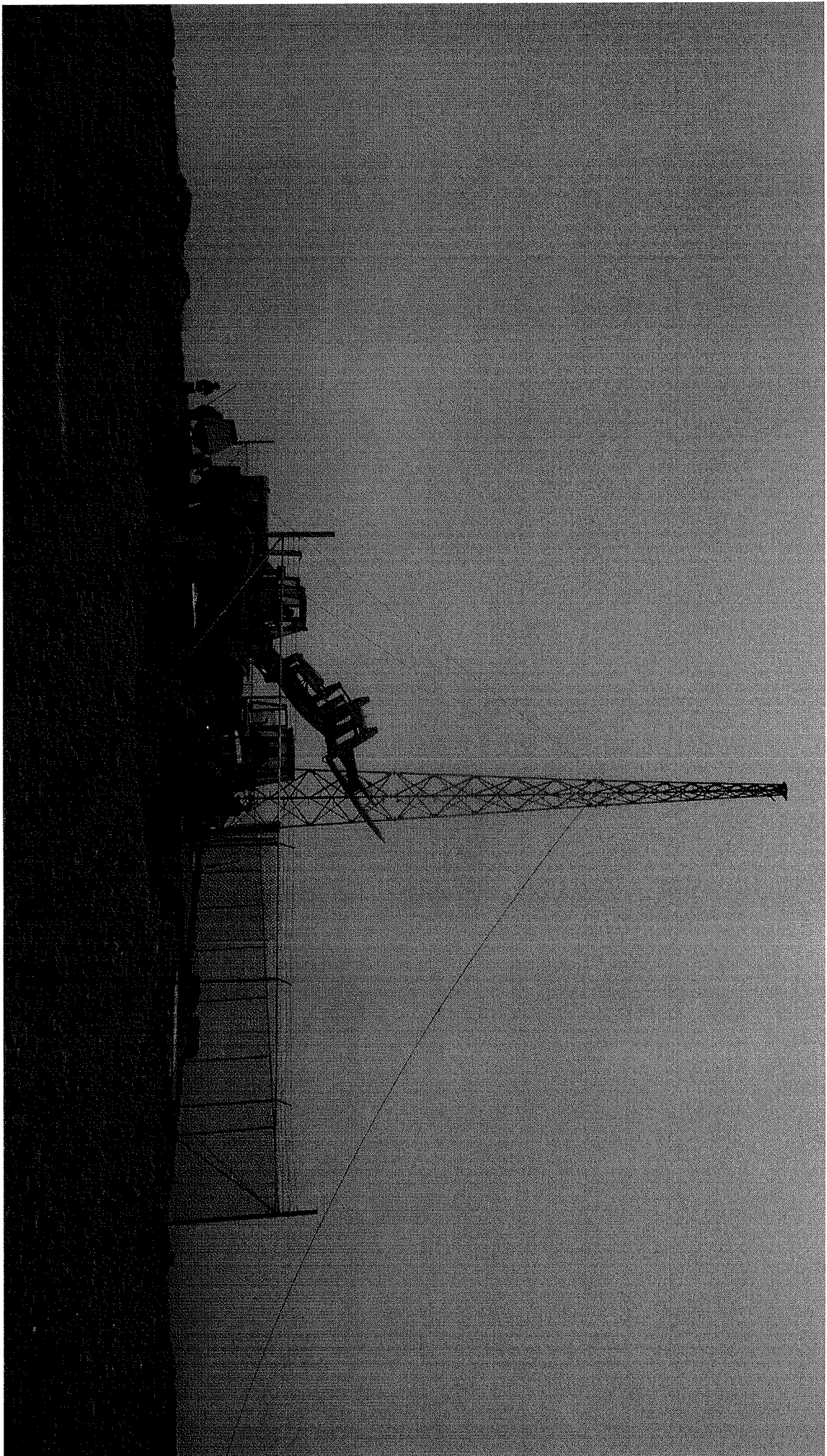


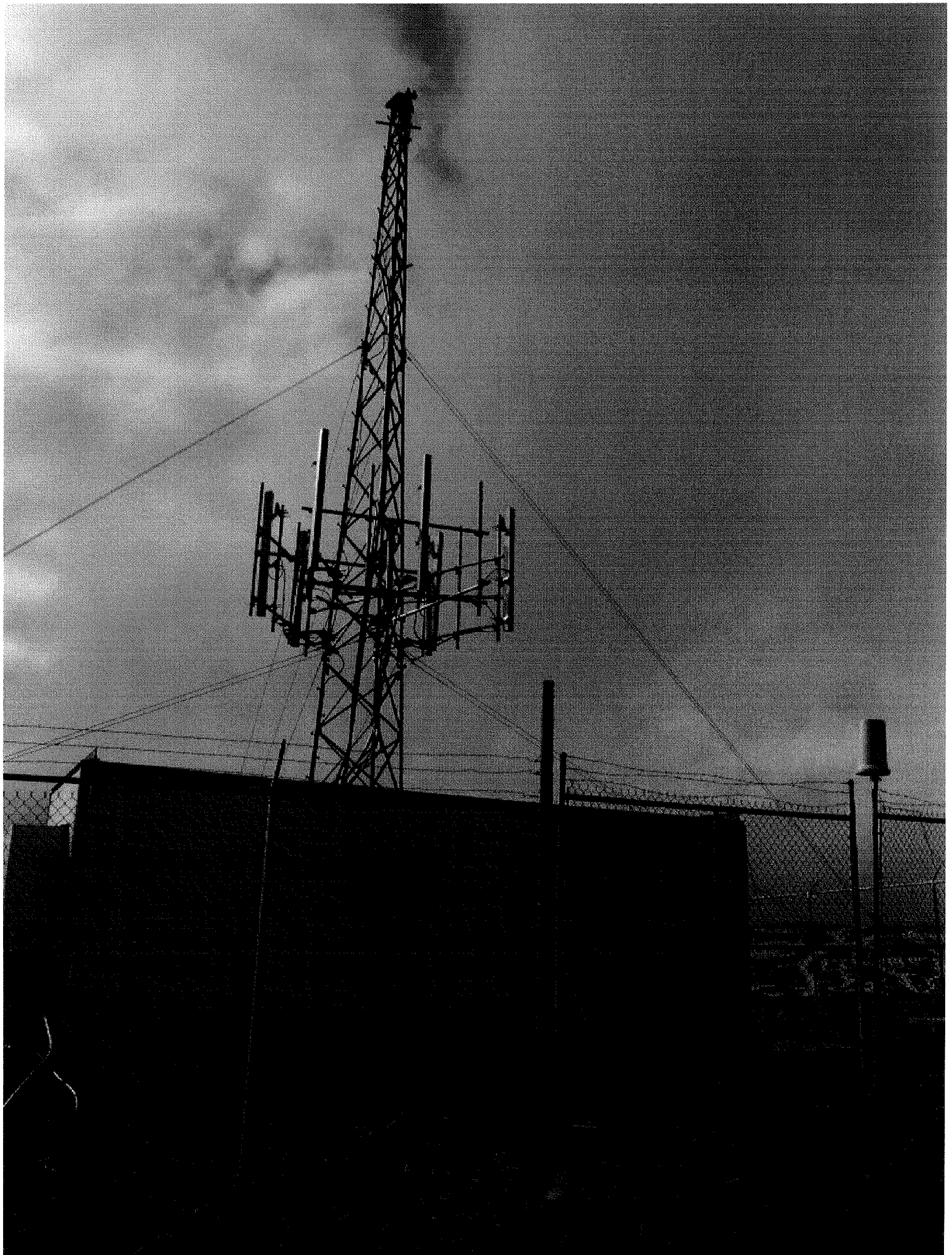
Attachment 2

WCC's Downtown and White Alice Cell Sites

Construction of White Alice Site

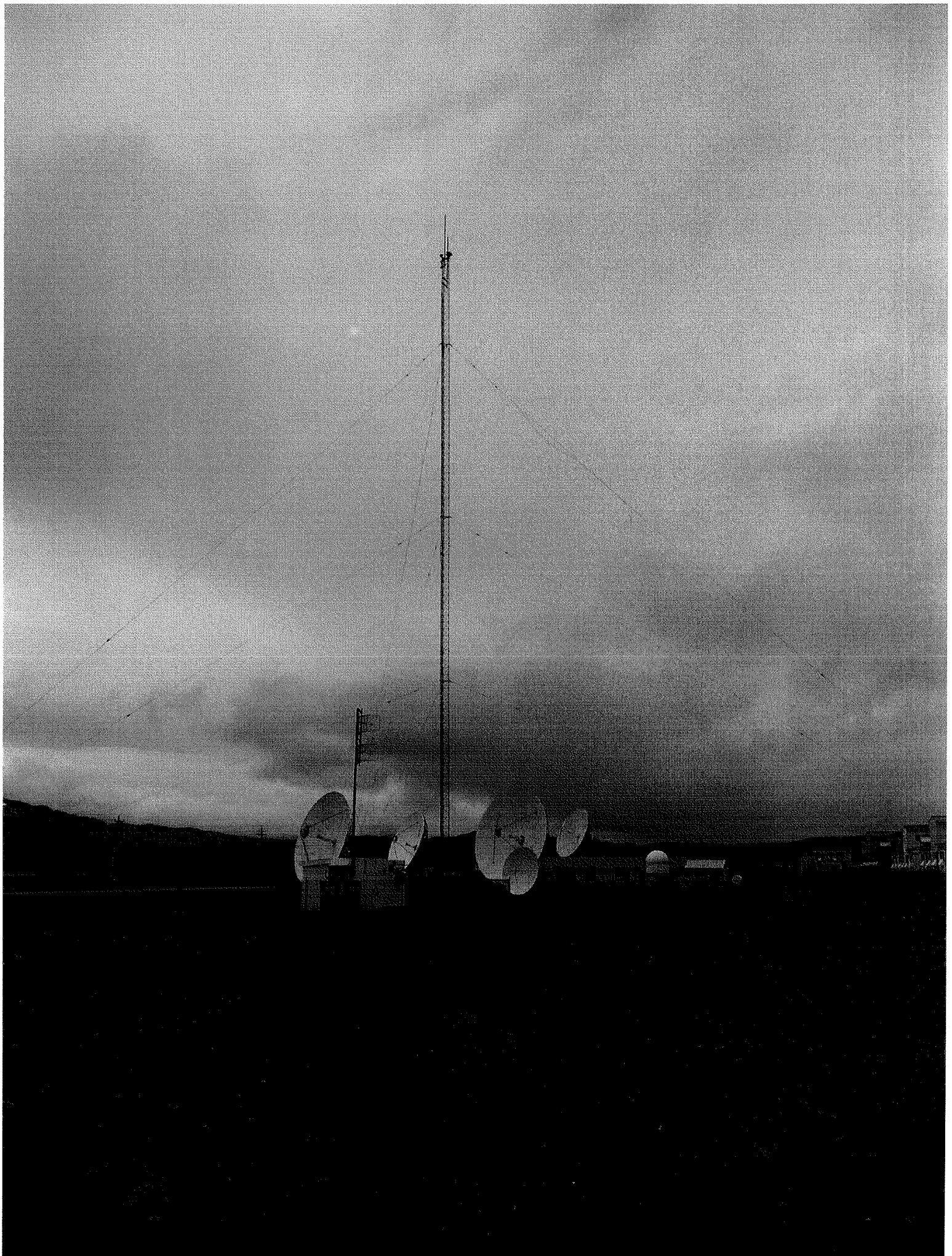


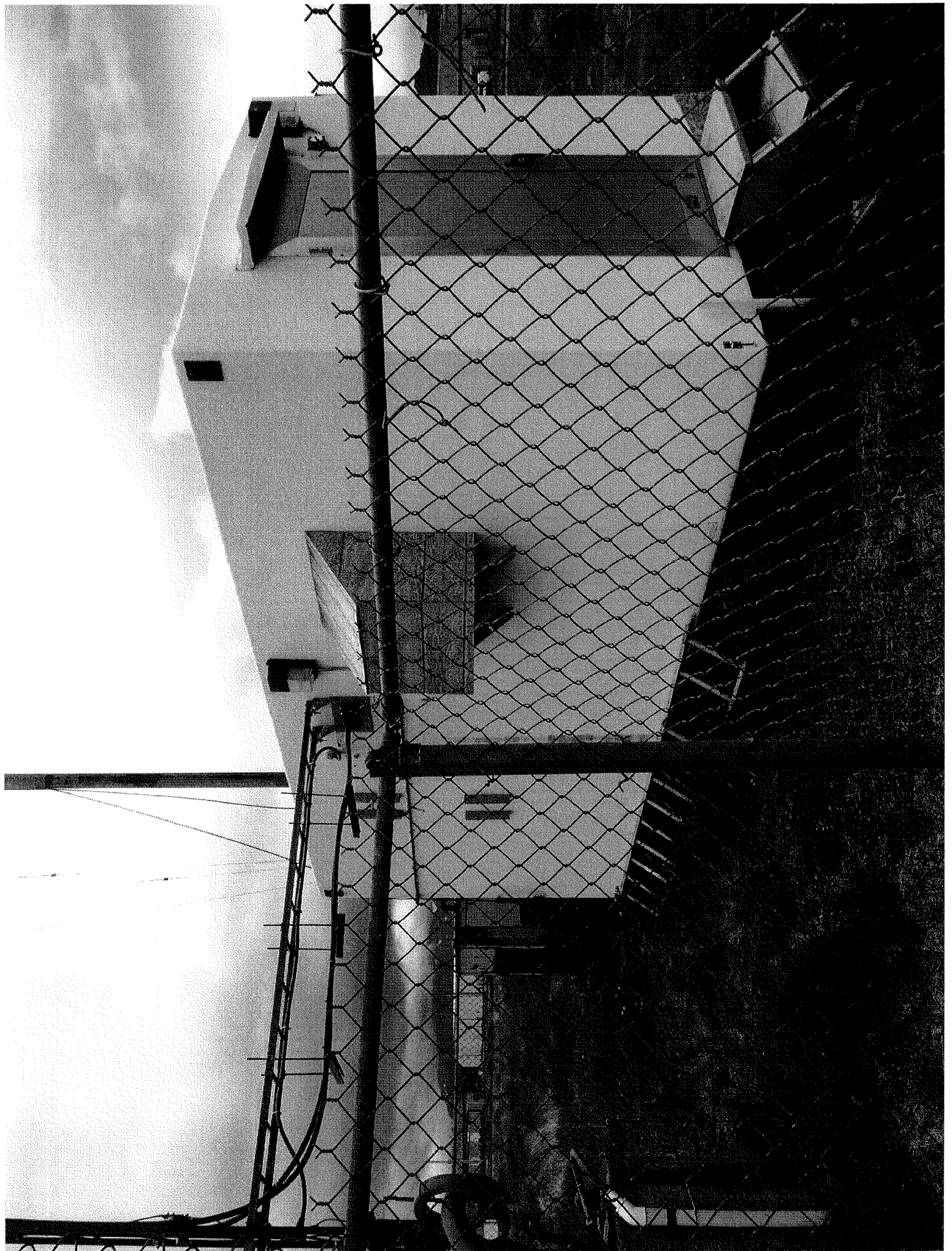






WCC's Downtown Site





Attachment 3

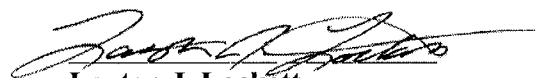
DECLARATION OF LAYTON J. LOCKETT

I, Layton J. Lockett, declare that the following is true and correct to the best of my knowledge and belief:

1. I am the City Manager for the City of Adak in Alaska.
2. Currently the City of Adak pays for service from General Communications, Inc D/B/A GCI/Alaska Wireless ("GCI") for five cellular telephone lines, and received five free phones from GCI, but the service from GCI is not actually used. The City originally signed a contract for five lines with GCI in 2010 in order to gain the mileage that was being offered by GCI as a promotion. The previous city clerk signed up for the offer which gave the City 250,000 Alaska Airlines miles if the City would sign up for 5 lines of service from GCI (50,000 per line). Given our fiscal position at the time, these air miles allowed staff to travel for business without using the limited cash the City had on hand (the City at that time was near insolvency).
3. Within three months of my employment in 2010 I sought to cancel the contract because the City of Adak did not use the five lines from GCI. Unfortunately, after looking at the costs I decided it made more fiscal sense to just pay the bill for the unused phone lines and let the contract expire. GCI came back to Adak in April of 2012 and at the time the promotion was still active, The promotion however was reduced to offering 25,000 miles per line (125,000) total for a maximum of five lines. Since phones were also given for free, I recalculated the cost of purchasing the miles vs. paying the monthly bill for the unused phone lines, and it was still cheaper to renew the contract with GCI for five cellular lines that we won't use rather than purchase airline mileage.
4. Although we have not actively used the GCI service, we have deployed one of the phones we received from GCI for our mobile 911 service. I installed a Windy City Cellular ("WCC") sim card in the GCI phone and exclusively use the WCC service. One sim chip from GCI is being held for immediate backup for the 911 mobile system as protection should Windy City Cellular's network fail for any prolonged period of time. It is my hope that possessing the GCI sim card will at some point allow us to decipher data from their network to determine which of their phones call 911 since they do not currently transmit usable, tracable data to 911.
5. In the third quarter of 2010, I had experimented with using the GCI wireless service for the mobile 911 system, however we immediately abandoned using that service less than a week later when their network went down. I had to plea with the senior management in Unalaska for them to reboot the network as they had no on-island presence. Furthermore, I had to explain that our mobile 911 system was on their network and could not answer any emergency calls while their network was down. As a result, I immediately cancelled the experiment as WCC has 24/7 staff on island that can respond immediately.
6. I personally have an iPhone and plan with AT&T, the plan and phone number of which I have had since 2002, and I use this phone on the island. It should be noted that I am aware that on Adak I am roaming on the WCC network.

7. After several GCI visits to the island, each time with the airline promotion and phones, I decided to personally sign up for the GCI promotion by purchasing five lines. Paying for GCI service (all five lines) is less expensive than paying for the equivalent mileage and/or flights to/from Adak Island. If I purchased the equivalent of the air miles from Alaska Airlines, I would pay \$3,695 (125×29.56 [includes the 7.5% tax]) versus \$2,276 (94.82×24 months) practically financed at 0% (technically the present value would be even less) so from a finance perspective I signed up. I also received 5 smart phones (several Samsung Galaxy II phones and HTC Acquire phones) valued at over \$200 each that conceivably reduces my net present value cost even further. Four of these phones I have in storage, though I did give one phone to a family member, who does not live on Adak, to use in a few communities where AT&T does not have a roaming agreement. This family member, when they do visit Adak, forwards the GCI phone number to the AT&T phone. On occasion, I will forward one of the phone numbers to my AT&T cell phone to mask my permanent number..
8. When I do use a GCI phone I have reception problems and therefore cannot rely on the coverage for much. In residing in the Kuluk neighborhood the signal strength is significantly less than what I receive through WCC. With the new tower at White Alice that Windy City Cellular installed, the coverage for myself and the city's 911 phone allows us to venture outside the core area while being accessible. As an example, when travelling to the northern areas of the city limits, to monitor our water/refuse infrastructure we regularly are outside GCI service area but not the WCC service area. Furthermore, the building materials the U.S. Navy utilized (consisting of dense metals, concrete, etc) reduce signal strength in areas of town and in most buildings.
9. Attached is my Alaska Airlines statement showing the miles being deposited into my personal airline mileage account after I bought five lines from GCI, that I do not use, notwithstanding the phone mentioned in item 7. Furthermore, attached is the Alaska Airlines statement showing the miles deposited in to the City's corporate airline mileage account for the five lines the City of Adak pays for but does not use.

I declare the foregoing under penalty of perjury. Executed on this 4th day of September 2012.



Layton J. Lockett
City Manager
City of Adak, Alaska
Phone: 907-592-4500 ext. 302


Attachment 4

DECLARATION OF ANDILEA WEAVER
ADAK EAGLE ENTERPRISES, LLC AND WINDY CITY CELLULAR, LLC

I, Andilea Weaver, declare the following is true and correct to the best of my knowledge and belief:

I am the Chief Operations Officer of Adak Eagle Enterprises, LLC and Windy City Cellular, LLC. I have reviewed the attached Ex Parte Notice, including all attachments, and attest, under penalty of perjury, that the facts contained therein are known to me and are accurate.

Executed on this 4th day of September 2012.



Andilea Weaver
Chief Operations Officer
Adak Eagle Enterprises, LLC and
Windy City Cellular, LLC